

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

IKEEM JARMER HUDSON,
Plaintiff,
v.
J. VASQUEZCOY, et al.,
Defendants

Case No. 1:21-cv-00861-EPG (PC)

**ORDER DENYING MOTION TO APPOINT
COUNSEL**

(ECF Nos. 7)

Plaintiff Ikeem Jarmer Hudson is civilly committed at the Metropolitan State Hospital and proceeds *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. (ECF Nos. 1, 4). Plaintiff filed his complaint on May 28, 2021. (ECF No. 1). The Court screened Plaintiff's complaint, concluding that only Plaintiff's excessive-force claim against Defendant J. Vasquezcoy should proceed past screening. (ECF No. 5, p. 13).

The Court allowed Plaintiff to choose between proceeding only on the claim found cognizable by the Court in the screening order, amending the complaint, or standing on the complaint subject to the Court issuing findings and recommendations to a district judge consistent with the screening order. (*Id.* at 13-14). On July 23, 2021, Plaintiff notified the Court that he wants to proceed only on the claim found cognizable by the screening order. (ECF No. 7).

Plaintiff's notice to proceed on the claim that the Court found cognizable also requests that the Court appoint counsel in this case: "I have a learning disability and I am confused on

1 how to proceed from here. Therefore, I am requesting that you appoint a lawyer.” (*Id.* at 1).
2 Because “[a] request for a court order must be made by motion,” the Court construes the
3 request as a motion to appoint counsel. Fed. R. Civ. P. 7(b)(1).

4 Plaintiff does not have a constitutional right to appointed counsel in this action, *Rand v.*
5 *Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *withdrawn in part on other grounds*, 154 F.3d
6 952 (9th Cir. 1998), and the Court cannot require an attorney to represent Plaintiff pursuant to
7 28 U.S.C. § 1915(e)(1). *Mallard v. United States District Court for the Southern District of*
8 *Iowa*, 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the Court may
9 request the voluntary assistance of counsel pursuant to section 1915(e)(1). *Rand*, 113 F.3d at
10 1525.

11 Without a reasonable method of securing and compensating counsel, the Court will seek
12 volunteer counsel only in the most serious and exceptional cases. In determining whether
13 “exceptional circumstances exist, a district court must evaluate both the likelihood of success of
14 the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the
15 complexity of the legal issues involved.” *Id.* (citation and internal quotation marks omitted).

16 The Court will not order appointment of counsel at this time. The Court has reviewed
17 the record in this case, and at this time the Court is unable to make a determination that
18 Plaintiff is likely to succeed on the merits of his claims. Moreover, it appears that Plaintiff can
19 adequately articulate his claims.

20 Plaintiff is advised that he is not precluded from renewing his motion for appointment
21 of counsel at a later stage of the proceedings.

22 For the foregoing reasons, IT IS ORDERED that Plaintiff’s motion for appointment of
23 counsel (ECF No. 7) is DENIED without prejudice.
24 IT IS SO ORDERED.
25

26 Dated: July 26, 2021

27 /s/ *Eric P. Guaj*
28 UNITED STATES MAGISTRATE JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28